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**Written submission from the
Nuclear Transparency Project**

**Mémoire du
Projet de transparence nucléaire**

**Regulatory Oversight Report on the
Use of Nuclear Substances in
Canada: 2022**

**Rapport de surveillance réglementaire
sur l'utilisation des substances
nucléaires au Canada : 2022**

Commission Meeting

Réunion de la Commission

November 1-2, 2023

1-2 novembre 2023



nuclear
transparency
project

Website: www.nucleartransparency.ca
Email: info@nucleartransparency.ca

Submitted via email

October 3, 2023

To President Velshi and Members of the Canadian Nuclear Safety Commission,

Re: Canadian Nuclear Safety Commission Staff's Regulatory Oversight Report
on the Use of Nuclear Substances in Canada: 2022

We would like to begin by thanking the Commission for this opportunity to provide comments on this Regulatory Oversight Report (ROR). We would also like to recognize the efforts of Canadian Nuclear Safety Commission (CNSC) staff, Canadian civil society organizations, and Indigenous Nations for their informative publicly available materials and submissions on this matter.

NTP is also grateful for the comments in writing by CNSC staff in response to the information requests, submissions, and recommendations that constituted our ROR intervention last year. Further, we would like to thank the CNSC staff who met with us recently on September 21st to discuss our intervention from last year and this year's ROR – it was a productive meeting and their time, attention, care throughout was appreciated.

About NTP

The Nuclear Transparency Project (NTP) is a Canadian-registered not-for-profit organization dedicated to supporting open, informed, and equitable public discourse on nuclear technologies. NTP advocates for robust public access to data and other types of information and helps to produce accessible analysis of publicly available information, all with a view to supporting greater transparency in the Canadian nuclear sector. NTP is comprised of a multi-disciplinary group of experts who work to examine the economic, ecological, and social facets and impacts of Canadian nuclear energy production. We are committed to interdisciplinary, cross-sectoral, and equitable collaborations and dialogue between regulators, industry, Indigenous nations and communities, civil society, members of host and potential host communities, and academics from a variety of disciplines.

About this intervention

NTP's intervention was made possible by CNSC funding through its Participant Funding Program (PFP). These submissions were drafted by NTP founder and coordinator Pippa Feinstein, JD LLM in collaboration with biologist Dr. Tamara Fuciarelli and Alan Rial, M. Eng. who performed NTP's data analysis.

Our submissions have been divided into three parts: the first part contains a review of the current ROR; the second part contains recommendations to increase the amount of publicly accessible data collected by facilities that use nuclear substances; and the third part which contains NTP's more general recommendations to improve the ROR intervention process for future ROR meeting proceedings. Our comments this year have been drafted to build on last year's recommendations, elaborating further on some of them and reporting on the progress of implementing others. As such, we hope this year's submission can be seen as a continuation of the conversations we began with the interventions we made last year.

PART ONE: NTP's review of the ROR

This year we were able to identify additional areas where the ROR took past intervenors' comments into account resulting in a more comprehensive and responsive report. One example of this is the inclusion of descriptions for each sub-category of licensee covered by this ROR. The lists of substances used or produced by the medical and industrial licensees and the descriptions of the processes that use or produce them, were especially helpful.

In next year's ROR, it would be beneficial if similarly-detailed descriptions could be provided for the other sub-categories of licensees under this ROR. We understand if these descriptions may be difficult for certain licensees such as research facilities which may differ significantly from one another and regularly change the substances they handle. However, it may still be possible to provide additional descriptions for other types of facility which would assist with public awareness and understandings of them.

Recommendation 1: that future ROR reports include more detailed descriptions of all sub-categories of licensee covered by this ROR. Ideally these descriptions would include lists the regulated substances used and produced by licensees as well as descriptions of the processes that use or produce these substances.

Last year, NTP noted that certain licensee operations or activities were described as 'insignificant' or 'minor', without data being provided to support and contextualize these characterizations. Our organization recommended that wherever assessments of significance are provided, CNSC staff should endeavour to provide the data, or else hyperlink to data sources, that can speak to how CNSC staff assessments were reached. Members of the public and civil society organizations vary in their science and data literacy. While some prefer to defer to the CNSC for assessments of safety, wellbeing,

and regulatory compliance, others have an interest in seeing and understanding how the CNSC comes to their determinations. A robust ROR would ideally cater to these differing needs, interests, and capacities. Infrastructure for wider data disclosure could be created fairly simply and contribute to greater public access to information and data in ways that should not be too taxing for licensees or regulatory staff.

Recommendation 2: that CNSC staff provide data to accompany any descriptive language for, or assessments of the significance of, environmental releases or doses to workers and the public.

NTP understands that the CNSC is in the process of developing the requisite regulatory and technical infrastructure for wider data disclosure and that this will take time. Our organization will continue to support this work through recommendations in our interventions as we learn more, and through our involvement in working groups and other fora relating to open access data. Some initial steps to support further development in this area that are specific to this ROR are listed in the second part of these submissions below.

Finally, our submissions last year noted that while risk-informed and “graded approaches” to oversight and public communications may be a necessary aspect of nuclear regulation, the CNSC should also recognize other complimentary approaches. Where (planned and unplanned) releases to the environment are known, such as sampling results from existing monitoring programs or mitigation efforts, they should be publicly released regardless of expected risks to environmental or public and worker health.

Recommendation 3: that environmental and dose-related data be released regardless of determinations of the risks they pose to environmental or public and worker health.

PART TWO: NTP’s review of publicly accessible data for facilities covered by the ROR

We had recommended last year that environmental data from all unsealed sources be routinely disclosed to the public. After receiving additional materials from CNSC staff outlining how facilities covered by this ROR are required to monitor their facilities, we have begun to narrow down potential types of facilities that would be best-suited to proactive public data disclosure. We hope to have more specific suggestions and recommendations in this regard in the future as we continue to learn more and discuss this issue with CNSC staff.

NTP contributors are also still in the process of cross-checking the list of facilities that use nuclear substances against the facilities included on the CNSC’s interactive map of nuclear facilities on its website. While the list of facilities is greater than those included on the map, we understand that sealed sources are tracked separately with some limited data made available on the Open Data portal. We continue to review these documents and hope to generate further comments and recommendations on these practices in time as well.

Finally, there are a few immediate practices that may be instituted to facilitate NTP analysis of data already contained in this ROR. First, the graphs and tables used to visualize data throughout the ROR and appendices could be embedded in the text rather than included as images. This could make the data they contain machine-readable and thus exportable to other machine-readable formats for further analysis. Further, the tables provided throughout the ROR could also be provided separately in CSV formats, either via a link or as a separate document that accompanies the ROR. Most of the tables and graphics included in the ROR are likely assembled in a version or format that is machine readable. As such, making that original format available to the public should not require too much staff time.

Recommendation 4: that CNSC staff ensure graphs and tables included in future RORs are machine-readable either by including data values in ROR text or else by disclosing these tables in separate CSV formats.

PART THREE: NTP's recommendations for future ROR intervention processes

Last year, we made three recommendations relating to the ROR intervention process that were not specific to any particular ROR. First, NTP requested more time to prepare interventions; second, we requested the ability to present oral submissions at Commission meetings to consider RORs; and third, we requested that the CNSC's PFP develop more specific intervenor funding criteria in consultation with members of the public and public interest organizations.

This year, we were very grateful for an additional two months of preparation time for this intervention. While CNSC staff's Commission Member Document (CMD) was released at roughly the same time as last year (in mid-late August), the additional preparation time before that allowed our experts to review the information and written responses from CNSC staff relating to our past intervention. It also allowed us to arrange our meeting with CNSC staff and provided enough time for us to incorporate what we learned at that meeting into these written submissions. Further, we have been offered the opportunity to deliver oral submissions for certain RORs this year, which is likewise appreciated. We hope these opportunities to make oral submissions are extended to all interested members of the public and civil society organizations, and that they may include the opportunity to meaningfully contribute to the public record for these ROR proceedings.

The review of the PFP funding criteria is an outstanding item that NTP would again like to propose for the CNSC's consideration. The scoping of ROR interventions by the funding grants and conditions intervenors receive can effectively shape the substantive content of ROR proceedings and impact the public record and any outcomes from Commission meetings. Developing a broader definition of the types of analysis and experts eligible for funding could expand the scope of funded interventions while still remaining consistent with the Commission's mandate.

Recommendation 5: that the CNSC's PFP develop more specific and expansive intervenor funding criteria, in consultation with members of the public and public interest organizations.